



JUN 25 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

COLLARD & ROE
1077 Northern Boulevard
Rosslyn, New York 11576-1696

In re Application of :
ERKHOV, Valentin, Sergeevich :
U.S. Application No.: 09/673,686 :
PCT No.: PCT/RU98/00143 :
International Filing Date: 18 May 1998 :
Priority Date: 20 April 1998 :
Attorney's Docket No.: ERKHOV-1 (PCT) :
For: METHOD FOR PRODUCING A SPECIFIC :
ANTISERUM AGAINST THE UNIVERSAL :
TUMOROUS ANTIGEN AND METHOD FOR :
DIAGNOSING MALIGNANT TUMOURS USING :
SAID ANTISERUM :
: COMMUNICATION
: REGARDING SECOND
: SUBMISSION UNDER 37
: CFR 1.42

In a decision mailed on 04 April 2001, this Office found that the substitute declaration filed by applicant on 01 December 2000 could not be accepted because it did not set forth the citizenship of the Galina Mikhailivna ERKHOVA (the person who executed the declaration as "Wife and sole heir" to the deceased inventor).

On 04 May 2001, applicants filed the new declaration considered herein.

DISCUSSION

A review of the new declaration filed on 04 May 2001 reveals that it is simply a copy of the previously submitted declaration on which the purported citizenship information for the heir of the deceased inventor has been added. The heir has not re-signed the new declaration, nor has she initialed the post-execution modification.

Section 602.01 of the MPEP states (emphasis added):

The wording of an oath or declaration cannot be amended, altered or changed in any manner after it has been signed. If the wording is not correct, or if all of the required affirmations have not been made, or if it has not been properly subscribed to, a new oath or declaration must be required.

In addition, section 605.04(a) of the MPEP states (emphasis added):

... it is emphasized that the application filed must be the application executed by the applicant and it is improper for anyone, including counsel, to alter, rewrite, or partly fill in any part of the application, including the oath or declaration, after execution of the oath or declaration by the applicant.

The post-execution addition of the citizenship information on the copy of the declaration filed on 04 April 2001 is therefore improper. Accordingly, the new declaration filed 04 April 2001 cannot be accepted.

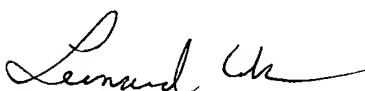
CONCLUSION

Based on the above, the substitute declaration submitted on 04 April 2001 is not sufficient to satisfy the requirements for a new declaration.

Applicants have not submitted a proper response to the Notification Of Missing Requirements (Form PCT/DO/EO/905). Such a response (i.e., a declaration in compliance with 37 CFR 1.497) must be submitted in order to avoid abandonment of this application.

Applicant has **ONE (1) MONTH** from the mail date of this decision to submit a proper response. This response period is not extendable; however, extensions of time are available under 37 CFR 1.136(a), with the time for reply being based on the mailing of this Office's previous decision on 04 April 2001.

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the International Division, Legal Staff.



Leonard Smith
PCT Legal Examiner
PCT Legal Office

RMR/LS:rnr



Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459